



PATENT
Attorney Docket No. 11016.02
Express Mail Label No. EV 156 970 485 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

CLAYCOMB, et al.

Serial No. 09/470,116

Filed: December 22, 1999

For: ELECTRONIC ESTRUS DETECTION
DEVICE

Examiner: N. Natnithithadha

Art Unit: 3736

**AFFIDAVIT OF ROBERT J. SCHEFFEL
APPLICANT'S ATTORNEY**

I, Robert J. Scheffel, do hereby swear, under penalty of perjury, the following:

1. I am a member of the State Bar of Colorado, Colorado registration number 33,373, and am a registered patent attorney, registration number 43,090.

2. This Affidavit is filed in regard to the Notice of Abandonment dated February 12, 2002, for the above-identified patent application.

3. From January 3, 2001 to July 21, 2002, I was an associate in the Denver office of Dorsey & Whitney LLP. I left Dorsey & Whitney in 2002 for a judicial clerkship.

4. I was one of the patent attorneys responsible for prosecution of United States Patent Application Serial No. 09/470,116 ("the '116 application"). The '116 application was filed on December 22, 1999, claiming priority to provisional application USSN 60/113,202, filed December 22, 1998.

5. Sometime in either November or December of 2001, I received an Office action from the Patent Office, with a mailing date of November 5, 2001.

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OFFICE OF PETITIONS

In the Office action, the Examiner rejected all the claims of the '116 application (claims 1-21) under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,542,431.

6. To the best of my recollection, this rejection was based on what I believed a misunderstanding of the claims of the '116 application. Accordingly, I contacted the Examiner on January 24, 2002 to discuss the rejections in conjunction with claims 1-21 as drafted.

7. To the best of my recollection, during this interview, the Examiner informed me that the interview adequately addressed the rejections under 35 U.S.C. § 102(b) but that an additional search was required to address any potential issues under 35 U.S.C. § 103(a). The examiner also requested that I forward a new power of attorney and told me that he would issue a new Office action once he had conducted the additional search.

8. Based on this interview, it was my understanding that the first Office action had been adequately addressed and that the Examiner would be issuing a new Office action once a search was completed. I was only required to forward a new power of attorney, which I submitted via facsimile on or about January 25, 2002.

9. On or about January 25, 2002, I received an interview summary from the Examiner confirming the substance of the January 24, 2002 interview. This summary is attached to this affidavit as Exhibit A. The interview summary specifically states that "A search will be needed based on the discussion," and that "[t]he next Office action will include the PTO-1449" form. See Exhibit A.

I hereby certify that all statements made herein are true and correct to the best of my knowledge.

Dated this 15th day of July, 2003.

Robert J. Scheffel
Robert J. Scheffel

State of District of)
County of Columbia) ss

Subscribed and sworn to before me this 15 day of July, 2003, by
Robert J. Scheffel.

Elizabeth Suave
Notary Public

My commission expires: _____
My Commission Expires
June 15, 2008

